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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re the Marriage of TAJU HUSSEIN
ADBULAZIZ and HALIMA ADEM
MOHAMMED.

TAJU HUSSEIN ABDULAZIZ,

Appellant,

v.

HALIMA ADEM MOHAMMED,

Respondent.

D073539

(Super. Ct. No. D562709)

APPEAL from an order of the Superior Court of San Diego County, Enrique
Camarena, Judge. Affirmed.

Taju Hussein Abdulaziz, in pro. per., for Appellant

Victor Mordey for Respondent.

Taju Hussein Abdulaziz appeals an order requiring him to pay Halima Adem
Mohammed \$168 per month in temporary spousal support and \$567 per month in child
support. We affirm.

Initially, we observe that Abdulaziz, as in propria persona litigant, is "entitled to the same, but no greater, rights than [a] represented litigant and [is] presumed to know the [procedural and court] rules." (*Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 795.) For any appellant, "[a]ppellate briefs must provide argument and legal authority for the positions taken. 'When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived.' " (*Nelson v. Avondale Homeowners Assn.* (2009) 172 Cal.App.4th 857, 862.) "We are not bound to develop appellants' argument for them. [Citation.] The absence of cogent legal argument or citation to authority allows this court to treat the contention as waived." (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830.)

As best we can tell from the record, at a hearing on September 6, 2017, the family law court ordered child support payments in the amount of \$567 per month and temporary spousal support payments of \$168, retroactive to February 15, 2017. The minutes from the September 6 hearing indicate that the court calculated Abdulaziz's gross monthly income as \$3,160 and net monthly income as \$2,556. The court calculated Mohammed's gross monthly income at \$1,352 and net monthly income at \$1,596.¹

¹ We acknowledge these figures seem to be transposed. Yet, we merely have repeated these numbers as they appear in the record.

The record includes a DissoMaster² report, with the indication that the "relevant findings" of that report are "adopted as the order of the court." The DissoMaster program produced the spousal and child support figures based on certain inputted data. The source of the inputted data and the data itself are not included in the record.

On October 11, 2017, Abdulaziz filed a request to set aside the September 6 order, at least regarding the child support award. There is no indication that Abdulaziz was seeking reconsideration of the amount of temporary spousal support. The hearing on Abdulaziz's request was to be heard on December 29, 2017.

To support his request, Abdulaziz submitted an income and expense declaration; a 2016 tax return; a declaration of child support factors; and other documents bearing on his financial condition. In his declaration, Abdulaziz purported to explain why he cannot afford to make the \$567 child support payment. Further, he argued the "income claimed on [the] [D]isso[M]aster report was . . . not [his] income at all." He thus asserted the family law court's "decision was based on unsubstantiated facts" and requested that the ordered be modified based on his correct income.

² "The DissoMaster is one of two privately developed computer programs used to calculate guideline child support as required by [Family Code] section 4055, which involves, literally, an algebraic formula." (*In re Marriage of Schulze* (1997) 60 Cal.App.4th 519, 523, fn. 2.)

There is no indication in the record regarding what occurred at the December 29, 2017 hearing. Presumably, the family law court denied Abdulaziz's request to modify the amount of child support because he subsequently appealed the September 6 order.³

On appeal, the order of the trial court is presumed to be correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Accordingly, if the order is correct on any theory, the appellate court will affirm it regardless of the trial court's reasoning. (*Estate of Beard* (1999) 71 Cal.App.4th 753, 776-777; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 18-19.) All intendments and presumptions are made to support the order on matters as to which the record is silent. (*Denham*, at p. 564.)

A trial court's award concerning child support is reviewed for abuse of discretion. (*In re Marriage of Cheriton* (2001) 92 Cal.App.4th 269, 282.) Likewise, a determination regarding a request for modification of a child support order will be affirmed unless the trial court abused its discretion, and it will be reversed only if prejudicial error is found from examining the record below. (*In re Marriage of Drake* (1997) 53 Cal.App.4th 1139.)

³ It appears from the record that the court issued the challenged order on September 6, 2017. Generally, we have permitted direct appeal of temporary support orders, including spousal and child support. (See *Sarracino v. Superior Court* (1974) 13 Cal.3d 1, 8-9.) There is no notice of entry of the September 6 order in the record. As such, Abdulaziz had 180 days to appeal the order. (Cal. Rules of Court, rule 8.104(a)(1)(C).) He filed his notice of appeal on February 8, 2018, 162 days after the September 6 order. Mohammed argues there is no appealable order in the record, but the record contains a document entitled "Child Support Order" that expressly incorporates the "relevant findings in the attached DissoMaster printout" "as the order of the court." Thus, we reject Mohammed's argument that this matter must be dismissed for lack of an appealable order.

Here, Abdulaziz's opening brief consists of little more than a single page of argument. It contains no citation to any legal authority to support his position. This deficiency alone is fatal to his appeal. (See *Nelson v. Avondale Homeowners Assn.*, *supra*, 172 Cal.App.4th at p. 862; *In re Marriage of Falcone & Fyke*, *supra*, 164 Cal.App.4th at p. 830.)

Moreover, even if we were to overlook this critical shortcoming, the record is woefully deficient to allow us to evaluate Abdulaziz's claims. An appellant "must affirmatively demonstrate error by an adequate record. In the absence of a contrary showing in the record, all presumptions in favor of the trial court's action will be made by the appellate court. 'If any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented.' " (*Bennett v. McCall* (1993) 19 Cal.App.4th 122, 127.)

The thrust of Abdulaziz's argument is that the court relied on incorrect information to calculate the spousal and child support amounts. He claims that both he and Mohammed submitted the inaccurate data on which the family law court relied. As such, he contends the DissoMaster report is based on false information. This contention must fail because the record does not allow us to evaluate Abdulaziz's claim. We do not know what the court considered in setting the amount of spousal support or child support because that information is not in the record. And there is no reporter's transcript of the September 6 hearing that could give us insight into the family law court's process and calculations below. Simply put, without knowing what information the court considered in setting the challenged support payments, we cannot determine if the court abused its

discretion. (See *Bennett v. McCall*, *supra*, 19 Cal.App.4th at p. 127 ["[g]iven the status of the record, we will not second guess the trial court's determination"].) Abdulaziz's challenge to the order therefore must fail.

DISPOSITION

The order is affirmed. Mohammed is entitled to her costs on appeal.

HUFFMAN, Acting P. J.

WE CONCUR:

NARES, J.

AARON, J.